

**Manatee Protection Plan Review Committee (MPPRC)
Minutes of January 26, 2009 Meeting**

Committee Attendees: Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; Judith Futerfas; David Gardner; Lynda Green; Mark Lewis; Kate L. Mansfield, Ph.D.; Robert Moser; Manny Prieguez (Chair); Dick Townsend (Vice Chair); Julia Zaias, Ph.D. (Note: some members left before the meeting was adjourned, and therefore were not present for votes on some motions)

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Lisbeth Britt (DERM); Molly Messer (DERM); Forrest Shaw (DERM); Nancy Revilla (DERM)

Other Attendees: A sign in sheet was provided for public sign in.

Welcome, Introductions, and Review of Agenda: A quorum was established. The meeting was called to order by Chairman Manny Prieguez at 12:42 P.M. The meeting was recorded on video. The Chair recognized the newly appointed member, Robert Moser. Mr. Moser thanked the Committee and Commissioner Diaz (District 12) for his appointment. He stated that he is a life long resident of Miami-Dade and runs a marketing company. Mr. Bibeau then requested an explanation from DERM as to why the draft agenda for this meeting, which was published on the web site, was different than the agenda distributed, specifically, why the previous item #6 *Review of DERM staff draft revisions/clarifications of "Existing Facility" definition* was omitted from the agenda. Ms. Green requested a motion that the committee focus on important issues but there was no second. In response to Mr. Bibeau, Dr. Markley stated that Mr. Hefty (who had just stepped out of the room momentarily) could address this issue when he returned to the meeting.

2. Continued Discussion of Revisions to the MPP Proposed by Committee Members: Mr. Gardner discussed his ideas that are listed in the document "MPPRC „Three Ideas per Member" Draft Master Compilation November 5, 2008 Meeting Assignment" attachment to the December 3, 2008 meeting minutes. In addition, he stated that boater education and law enforcement should be emphasized more, as well as improving the width of navigable waterways that have encroaching mangroves. Mr. Hefty responded by stating that DERM does issue permits for mangrove trimming for purposes of maintaining navigation in channels. A discussion then followed among the committee members concerning increased enforcement and it was suggested that more enforcement may not be a realistic option due to the current economic climate. Several members suggested that consideration by the MPPRC should be given to allowing more vessels in areas that are not frequented by manatees and restricting additional vessels in areas where manatees frequently are found and congregate.

3. National Geographic Channel "Thirsty Manatee": A two minute video was shown explaining how the lack of fresh water forces manatees to depend on water at marinas and docks where they are more likely to be injured by boats. Chair Prieguez asked whether or not inadequate freshwater is a systemic problem or just a result of recent droughts. Dr. Markley explained that the issue is a systemic one and is one reason why manatees congregate at tributaries and canals where there is freshwater flow.

4. Review of Current Manatee Protection Plan (MPP) Facility Siting Guidelines and DERM Permit Review Procedures: Dr. Markley noted that in view of new members joining the

committee and questions that have arisen at some meetings, DERM staff would present a review of the Marine Facility Guidelines in the current MPP. She reviewed the 1995 MPP definition for existing facilities. She referred again to the FWC policies which direct development of a plan for siting of new and expanded facilities so that vessel traffic through the most important manatee habitats could be minimized. She reviewed the map from the 1995 MPP which illustrates areas where expansion of vessel facilities is recommended. Dr. Markley noted that there are many locations where marine facility expansion is recommended without limitation for manatee protection, and that even within manatee habitat, expansion is recommended, but with limitation on number of slips or type of facility. She also noted that recommended sites for new or expanded large vessel facilities and transient or courtesy docks are identified in the current MPP. She pointed out that the Miami-Dade MPP does not currently contain any "cap" or limit on numbers of vessels, and with the exception of an area near Virginia Key and in a small portion of the Black Point marina basin, the MPP does not prohibit construction of docks or other facilities. Dr. Markley also explained that manatee protection guidelines are one of many criteria that are considered during permitting, and other factors such as navigation, submerged land ownership, water quality, or other sensitive plant or animal resources may result in other limits. Dr. Markley suggested that with the newer data now being collected, the MPPRC might be able to make recommendations for updating the siting criteria.

Lee Hefty, DERM Assistant Director, followed with a presentation on the procedures DERM uses when evaluating permit applications for consistency with the MPP and other environmental requirements. He stated that Chapter 24 of the Miami-Dade County Code (MDCC) requires construction permits for work in all tidal waters of Miami Dade County, including single family docks. In addition, operating permits are required for boat docking and vessel storage facilities with 10 or more slips and for commercial vessel slips. Construction and operating permits are subject to other review criteria in addition to Chapter 24 and the MPP, such as state and federal laws which may preclude a proposed development. He then explained the review process once an application has been received. DERM reviews each application on a case by case basis and makes recommendations in order to make a project approvable.

Chair Prieguez then opened the floor for questions. Mr. Bibeau asked Mr. Hefty whether or not DERM would be presenting draft revisions to the definition of existing facilities in the near future as suggested by the earlier draft agenda. Mr. Hefty said that this will be included with DERM's other proposed revisions. Several other committee members asked questions and commented about the criteria for facility siting and expansion and determination of historical slip numbers related to expansion of facilities; the public's perception of the role of the MPP in the permitting process; and whether the MPP places an undue burden on permit applicants. Mr. Crowley requested that DERM provide recommendations to the MPPRC for better administration of the plan and more efficiency in the permitting process. Mr. Hefty responded to questions and stated that DERM would continue to provide further recommendations. In addition, Mr. Hefty responded to specific questions about permitting, including timeframes for response to applications.

In response to a concern of a member of the committee related to the sunset date of the committee, Dr. Markley announced that the Board of County Commissioners had approved the MPPRC's request for extension of the sunset date to July 2009.

Based on the information that she had heard, Dr. Zaias stated that she did not believe the MPP to be an undue burden to applicants. This topic generated further discussion with several members stating their disagreement and Chair Prieguez also mentioning that several members of the public had addressed the committee expressing frustration with "navigating the plan". Ms.

Green mentioned that there are other regulations at play that could create a burden not related to manatees. In addition, there was further discussion with feedback from DERM staff regarding questions and comments relating to the current MPP including variance procedures, the origin of the 1984 “cut-off date” and what was described by Mr. Crowley as a possible disconnect between public perception and DERM's interpretation of the MPP, which he thinks should be addressed. Several committee members also asked questions of staff concerning how the “existing facilities” definition may apply to rebuilding or transfer of slips specifically relating to Miami Shipyard, a site that has been redeveloped as a high-rise residential condominium.

5. Updated Maps of Facilities in Operation: Craig Grossenbacher of DERM presented a new set of draft maps prepared by DERM depicting 1) marine facility locations operating with permits in both 1995 and 2007, 2) locations of marine facilities gained since 1995, and 3) locations of facilities lost between 1995 and 2007. DERM's Marina Operating Permit files are the source of the data presented in the maps. An updated inventory of docking facilities is required by the State for proposed revisions to the County's MPP. Mr. Grossenbacher indicated that lost facilities on the river can be attributed mostly to land use changes that no longer include docks or marine operations. He stated that DERM also intends to prepare maps using information from Class 1 coastal construction permit files to depict where additional slips have been authorized for construction since the MPP was adopted.

Ms. Futerfas and Mr. Bibeau requested that copies of the draft maps be emailed to the committee members. Ultimately each map will be finalized using all available October 2007 - September 2008 data (operating permits for facilities are not all issued at one time) and the final geographic information systems (GIS) work product will include tables of the facility information corresponding with each geographic location. Since each operating permit file has to be individually reviewed and compiled, the work is very time consuming and will be presented again when it is completed.

6. Public Comment: Fran Bohnsack - Executive Director of the Miami River Marine Group:

Ms. Bohnsack, a member of the committee that assisted with the 1995 MPP, spoke from her experience with the Miami River Marine Group. Ms. Bohnsack reviewed growing concerns about the economy and trade, rising property values and taxes, and the effect on the marine industry. She also reviewed trends in zoning and redevelopment that created loss of marine uses, and court decisions and tax incentives that should encourage retention of marine industries. Ms. Bohnsack stressed that additional restrictions or limitations on redevelopment of marine industries would represent an unacceptable hardship. She also mentioned that communication among vessel captains helps alert them to presence of manatees in the Miami River.

Ed Swakon - President of the Miami Marine Council: Mr. Swakon reminded the members that he had presented at their Public Hearing in April 2008. He reiterated recommendations about the need for additional public docking and water access facilities for boaters, a slip transfer procedure, and revision of MPP performance criteria. He encouraged development of a vision for improving water use opportunities, building on components of the current MPP that are working, and taking into account speed zones and other factors.

Orin Black: Mr. Black requested that the MPPRC evaluate the facility expansion areas identified by the 1995 MPP to determine whether they are built out or adequate and to identify limiting factors within the areas.

7. Review of draft minutes of December 3, 2008: Chair Prieguez asked whether the December minutes required any discussion. Mr. Bibeau made a motion to approve the draft December 3rd Minutes with two conditions below.

Motion 1: Mr. Bibeau made a motion “to amend the draft minutes on page number 3, in the paragraph entitled Brett Bibeau, at the very end of the paragraph replacing the words “his statements in their entirety” with “the resolutions”.

Motion 1 was seconded by Mr. Bunnell and passed with a vote of 6 to 2 as follows:

Brett Bibeau - yes	Alberto Lamadrid - absent
Richard Bunnell - yes	Mark Lewis - yes
T. Spencer Crowley III -absent	Kate L. Mansfield, Ph.D. - no
Judith Futerfas - yes	Robert Moser - absent
Richard Gardner - yes	Manny Prieguez (Chair) - yes
Lynda Green - absent	Dick Townsend (Vice Chair) - no
Bob Karl - absent	Julia Zaias, Ph.D. - absent

Motion 2: Mr. Bibeau made a motion to “amend page 4 the verbatim motion to start the tape after, as it currently states, once I get on track and rattle off the 5, which is accurately stated, just leaving that part and deleting the other part which I read in its entirety into the record” (The language Mr. Bibeau proposed to be deleted is the following, as stated into the record by Mr. Bibeau in the discussion prior to the motion: “*The deleted five names are Flamingo Marina, TCY Limited, International Yacht Harbor...no, I’m sorry which one stays...uh, I’m deleting the um, ok...just the five being deleted...International Yacht Harbor...stays...goes...(Chair Prieguez interjected “That’s one”)... that’s three, North Bay Landing is one...wait... which one gets deleted...alright, these are the ones getting deleted: Number 1...(Dr. Markley interjected “We are going to have a real hard time trying...”)... very simple - these are the ones getting deleted*”).

Motion 2 was seconded by Mr. Bunnell and passed with a vote of 5 to 3 as follows:

Brett Bibeau - yes	Alberto Lamadrid - absent
Richard Bunnell - yes	Mark Lewis - yes
T. Spencer Crowley III - absent	Kate L. Mansfield, Ph.D. - no
Judith Futerfas - yes	Robert Moser - absent
Richard Gardner - yes	Manny Prieguez (Chair) - no
Lynda Green -absent	Dick Townsend (Vice Chair) - no
Bob Karl – absent	Julia Zaias, Ph.D. - absent

The draft December 3, 2008 minutes were then unanimously approved by present members subject to revisions made by Motion 1 and Motion 2 as stated above.

Brett Bibeau - yes	Alberto Lamadrid - absent
Richard Bunnell - yes	Mark Lewis - yes
T. Spencer Crowley III - absent	Kate L. Mansfield, Ph.D. - yes
Judith Futerfas - yes	Robert Moser - absent
Richard Gardner - yes	Manny Prieguez (Chair) - yes
Lynda Green -absent	Dick Townsend (Vice Chair) - yes
Bob Karl - absent	Julia Zaias, Ph.D. - absent

8. Proposed date for next regular meeting: Tuesday, February 24, 2009 12:30 P.M. - 4:30 P.M.

The meeting adjourned at 4:13 P.M.